

109TH CONGRESS
1ST SESSION

H. R. 3184

To ensure that countries that have signed a Small Quantities Protocol also sign, ratify, and implement the Additional Protocol and provide access by IAEA inspectors to their nuclear-related facilities and to direct the United States Permanent Representative to the IAEA to make every effort to rescind and eliminate the Small Quantities Protocol and ensure compliance by all Member States of the IAEA with IAEA obligations and the purposes and principles of the Charter of the United Nations.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Ms. ROS-LEHTINEN (for herself and Mr. LANTOS) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To ensure that countries that have signed a Small Quantities Protocol also sign, ratify, and implement the Additional Protocol and provide access by IAEA inspectors to their nuclear-related facilities and to direct the United States Permanent Representative to the IAEA to make every effort to rescind and eliminate the Small Quantities Protocol and ensure compliance by all Member States of the IAEA with IAEA obligations and the purposes and principles of the Charter of the United Nations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SMALL QUANTITIES PROTOCOL.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) There are 87 countries that are signatories
4 to the Small Quantities Protocol as part of their ex-
5 isting safeguards and inspection agreement with the
6 International Atomic Energy Agency (IAEA).

7 (2) The Small Quantities Protocol was origi-
8 nally intended to conserve limited safeguards re-
9 sources by foregoing inspections in small countries
10 in stable regions that had little or no nuclear mate-
11 rials and no nuclear facilities.

12 (3) Unfortunately, at a time when terrorism
13 and private nuclear “black-market” supplier net-
14 works exist and flourish by taking advantage of
15 small countries with lax government regulations and
16 oversight, the Small Quantities Protocol may become
17 a hindrance to the timely detection by the IAEA of
18 illicit nuclear proliferation activities.

19 (4) It has also become clear that some coun-
20 tries, such as Saudi Arabia, are not in secure and
21 stable regions of the world and concerns have been
22 raised about their possible interest in nuclear tech-
23 nology.

24 (5) Saudi Arabia, a signatory to a Small Quan-
25 tities Protocol as of June 16, 2005, is one of 27
26 non-nuclear members of the Treaty on the Non-Pro-

1 proliferation of Nuclear Weapons (21 UST 483) (com-
2 monly referred to as the “Nuclear Nonproliferation
3 Treaty” or the “NPT”) but is only “willing to pro-
4 vide” the IAEA with additional information and ac-
5 cess “if all other parties” are required to comply.

6 (6) The Small Quantities Protocol allows coun-
7 tries to possess up to the following amounts of nu-
8 clear material without having to report such to the
9 IAEA:

10 (A) Ten tons of natural uranium.

11 (B) Twenty tons of depleted uranium, de-
12 pending on the degree of enrichment.

13 (C) One kilogram of plutonium.

14 (7) Countries party to the Small Quantities
15 Protocol can continue to secretly work on nuclear fa-
16 cilities for up to six months before such facilities are
17 operational.

18 (8) The Small Quantities Protocol therefore
19 makes it difficult for the IAEA to evaluate the nu-
20 clear program of a Small Quantities Protocol coun-
21 try or to verify that such a country meets the condi-
22 tions required to operate under the Small Quantities
23 Protocol.

24 (9) According to an IAEA report circulated to
25 the Member States on the Board of Governors of the

1 IAEA, the Small Quantities Protocol “has the effect
2 of holding in abeyance the implementation of most
3 of the safeguard’s measures” as well as limiting “ob-
4 ligations to provide certain information” and the
5 “right to request access to relevant locations”.

6 (10) The Additional Protocol to the Safeguards
7 Agreements between the IAEA and Member States
8 of the IAEA empowers the IAEA to seek a broad
9 range of information about all aspects of a country’s
10 nuclear and nuclear-related activities. The Addi-
11 tional Protocol also provides broader right of access
12 for IAEA inspectors to nuclear and nuclear-related
13 facilities and contains measures to improve the effec-
14 tiveness of safeguards for such activities.

15 (11) The Additional Protocol is therefore an
16 important means of addressing some of the concerns
17 outlined above, particularly concerning rights of ac-
18 cess to certain information.

19 (b) STATEMENT OF CONGRESS.—Congress declares
20 that, in light of the findings described in subsection (a),
21 the United States should use all diplomatic, political, and
22 economic means necessary to persuade all countries cur-
23 rently with a Small Quantities Protocol to renounce their
24 Small Quantities Protocol and to sign, ratify, and imple-
25 ment the Additional Protocol at the earliest possible date.

1 (c) UNITED STATES POLICY.—

2 (1) REQUIREMENTS.—

3 (A) IN GENERAL.—The President shall use
4 all available political, economic, and diplomatic
5 tools to ensure that each United States ally or
6 recipient of United States assistance that has
7 signed a Small Quantities Protocol with the
8 IAEA, also signs, ratifies, and implements the
9 Additional Protocol and provides immediate ac-
10 cess for IAEA inspectors to its nuclear-related
11 facilities.

12 (B) DEFINITION.—In this paragraph, the
13 term “United States assistance” means assist-
14 ance under any provision of law with respect to
15 which amounts are appropriated under the for-
16 eign operations, export financing, and related
17 programs appropriations Act for a fiscal year.

18 (2) LIMITATION ON ASSISTANCE.—If a country
19 has signed a Small Quantities Protocol with the
20 IAEA but does not satisfy the requirements specified
21 in paragraph (1), the President shall prohibit the
22 provision or transfer of each of the following to the
23 country:

24 (A) Assistance under part II of the For-
25 eign Assistance Act (22 U.S.C. 2301 et seq.),

1 other than assistance under chapter 6 of part
2 II of such Act (22 U.S.C. 2348 et seq.).

3 (B) Assistance under section 23 of the
4 Arms Export Control Act (22 U.S.C. 2763).

5 (C) Defense articles, defense services, or
6 design and construction services under the
7 Arms Export Control Act (22 U.S.C. 2751 et
8 seq.), including defense articles and defense
9 services licensed or approved for export under
10 section 38 of that Act (22 U.S.C. 2778).

11 (D) Dual use goods or technology. In this
12 subparagraph, the term “dual use goods or
13 technology” means goods or technology that are
14 specifically designed or developed for civil pur-
15 poses but which also may be used or deployed
16 in a military or proliferation mode. Such term
17 does not include purely commercial items.

18 (3) WAIVER.—The President may waive the
19 limitation on assistance to a country described in
20 paragraph (2) for not more than one fiscal year if,
21 at least 30 days before such waiver is to take effect,
22 the President certifies to the Committee on Inter-
23 national Relations of the House of Representatives
24 and the Committee on Foreign Relations of the Sen-
25 ate that—

1 (A) such waiver is vital to the national se-
2 curity of the United States; and

3 (B) such country has undertaken substan-
4 tial measures to comply with the requirements
5 of paragraph (1).

6 (d) ACTIONS AT IAEA.—The President shall direct
7 the United States Permanent Representative to the IAEA
8 to use the voice, vote, and influence of the United States
9 at the IAEA to make every effort to ensure that the IAEA
10 changes the policy regarding the Small Quantities Pro-
11 tocol in order to—

12 (1) rescind and eliminate the Small Quantities
13 Protocol;

14 (2) require that any IAEA Member State that
15 has previously signed a Small Quantities Protocol to
16 sign, ratify, and implement the Additional Protocol,
17 provide immediate access for IAEA inspectors to its
18 nuclear-related facilities, and agree to the strongest
19 inspections regime of its nuclear efforts; and

20 (3) require that any IAEA Member State that
21 does not comply with paragraph (2) to be ineligible
22 to receive nuclear material, technology, equipment,
23 or assistance from any IAEA Member State and
24 subject to the penalties described in subsection (e).

25 (e) PENALTIES.—

1 (1) IN GENERAL.—The President shall direct
2 the United States Permanent Representative to the
3 IAEA to use the voice, vote, and influence of the
4 United States at the IAEA to ensure that a Member
5 State of the IAEA that is under investigation for a
6 breach of or noncompliance with its IAEA obliga-
7 tions or the purposes and principles of the Charter
8 of the United Nations has its privileges suspended,
9 including—

10 (A) limiting its ability to vote on its case;

11 (B) being prevented from receiving any
12 technical assistance; and

13 (C) being prevented from hosting meetings.

14 (2) TERMINATION OF PENALTIES.—The pen-
15 alties specified under paragraph (1) shall be termi-
16 nated when such investigation is concluded and such
17 Member State is no longer in such breach or non-
18 compliance.

19 (f) REPORT.—Not later than 90 days after the date
20 of the enactment of this Act and every 180 days there-
21 after, the President shall submit to the Committee on
22 International Relations of the House of Representatives
23 and the Committee on Foreign Relations of the Senate
24 a report that includes the following information:

1 (1) A description of progress made towards
2 achieving the requirements described in subsection
3 (c) and the policy changes described in subsection
4 (d).

5 (2) A description of any penalties under sub-
6 section (e) that have been imposed and a list of
7 those countries that have been subject to such pen-
8 alties.

9 (3) A list of countries that have a Small Quan-
10 tities Protocol with the IAEA, including—

11 (A) their level of cooperation with safe-
12 guards inspections of their nuclear facilities;

13 (B) whether they have signed, ratified, and
14 implemented the Additional Protocol;

15 (C) the type and amount of assistance re-
16 ceived from the IAEA; and

17 (D) the type and amount of assistance re-
18 ceived from each IAEA Member State.

19 (4) A description of United States strategy to
20 ensure compliance by United States allies and recipi-
21 ents of United States assistance with the require-
22 ments described in subsection (c) and the policy
23 changes described in subsection (d).

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